



City of Huntington Beach Planning and Building Department

STUDY SESSION REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Ethan Edwards, AICP, Associate Planner *EE*
DATE: January 24, 2012

SUBJECT: **TWELVE-MONTH REVIEW OF ENTITLEMENT PLAN AMENDMENT NO. 10-003 (PLAZA ALMERIA CARTS – AMENDMENT TO CONDITIONAL USE PERMIT NO. 2000-015(R))**

APPLICANT: Michael Adams, Michael C. Adams Associates, P.O. Box 382, Huntington Beach, CA 92648

PROPERTY

OWNER: John Tillotson, J.T. Development, 15272 Bolsa Chica Road, Huntington Beach, CA 92649

LOCATION: 301 Main Street (full block bounded by Main Street, Olive Avenue, Fifth Street, and Orange Avenue – Plaza Almeria)

PROJECT REQUEST AND SPECIAL CONSIDERATIONS

This item represents a twelve-month review of Entitlement Plan Amendment (EPA) No. 10-003, approved by the Planning Commission on September 14, 2010. EPA No. 10-003 amended Condition of Approval No. 1 of Conditional Use Permit No. 00-15(R) by increasing the number of approved portable vending carts from 6 to 10 within Plaza Almeria. When EPA No. 10-003 was approved, the Planning Commission required a review of the use within approximately twelve (12) months of the operation of the carts (Condition of Approval No. 7).

CURRENT LAND USE, HISTORY OF SITE, ZONING AND GENERAL PLAN DESIGNATIONS

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property	MV-F6/25-sp-pd (Mixed Use Vertical-2.0 FAR/25 du/acre-specific plan-pedestrian overlay)	DTSP – 1 – CZ (Downtown Specific Plan – District 1 – Coastal Zone)	Plaza Almeria Mixed Use Project
North of Subject Property (across Orange Avenue)	MV-F6/25-sp-pd	DTSP – 1 – CZ	Residential (Townsquare Condominiums)
East of Subject Property (across Main Street)	MV-F6/25-sp-pd	DTSP – 1 – CZ	Commercial (Retail & US Post Office)
South of Subject Property (across Olive Avenue)	MV-F6/25-sp-pd	DTSP – 1 – CZ	Commercial (Team Design Mixed-Use Building & Surf Museum)
West of Subject Property (across 5 th Street):	MV-F6/25-sp-pd	DTSP – 1 – CZ	Commercial & Residential

CEQA ANALYSIS/REVIEW

The proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, which states that minor alterations and operation to existing structures are exempt from further environmental review.

COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES

The purpose of the review is to verify compliance with the Huntington Beach Zoning and Subdivision Ordinance and conditions of approval. The review considered police and code enforcement complaints and included on-site inspections and monitoring by Police, Planning, and Code Enforcement staff. To date, no complaints have been received regarding safety, security, or visibility issues.

PUBLIC MEETINGS, COMMENTS AND CONCERNS

There have been no public meetings regarding this project. To date, there have been no comments from the public regarding this project.

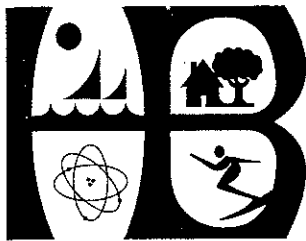
PLANNING ISSUES

Condition of Approval Nos. 2a and 2b of EPA No. 10-003 have yet to be satisfied. Condition of Approval No. 2a requires one set of project plans, revised pursuant to Condition of Approval No. 1, shall be submitted to the Planning Division for review, approval and inclusion in the entitlement file. This condition was approved in an effort to accurately depict the number and location of carts on the property. Condition of Approval No. 2b requires an amended or new License Agreement, including fees, shall be obtained from the City for portable vending carts location on public property. This condition requires coordination between the property owner and City and would allow vending carts to encroach into the public right-of-way for a certain term and use charge, along with other requirements including indemnification. The Public Works Department has prepared a draft license agreement, but cannot proceed until Condition of Approval No. 2a is satisfied.

Staff recommends the Planning Commission direct the applicant to work with staff in satisfying Condition of Approval Nos. 2a and 2b and conduct a review of the use within approximately 3 months to verify compliance with the Huntington Beach Zoning and Subdivision Ordinance and conditions of approval. As an alternative, the Planning Commission may direct staff to schedule the item for revocation of the approved entitlements.

ATTACHMENTS:

1. Planning Commission Notice of Action dated September 15, 2010 (EPA No. 10-003)



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

September 15, 2010

Michael Adams
Michael C. Adams and Associates
P.O. Box 382
Huntington Beach, CA 92648

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 10-003 (PLAZA ALMERIA CARTS – AMENDMENT TO CONDITIONAL USE PERMIT NO. 00-15(R) – CONTINUED FROM THE AUGUST 10, 2010 MEETING WITH THE PUBLIC HEARING OPEN)

APPLICANT: Michael Adams, Michael C. Adams Associates

REQUEST: To amend Condition No. 1 of Conditional Use Permit No. 00-015(R) by increasing the number of approved vending carts from 6 to 14.

PROPERTY

OWNER: John Tillotson, J.T. Development, 15272 Bolsa Chica Road, Huntington Beach, CA 92649

LOCATION: 301 Main Street, 92648 (full block bounded by Main Street, Olive Avenue, Fifth Street, and Orange Avenue – Plaza Almeria)

DATE OF

ACTION: September 14, 2010

On Tuesday, September 14, 2010, the Huntington Beach Planning Commission took action on your application, and your application was **approved with findings and conditions of approval**. Attached to this letter are the findings and conditions of approval.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Five Hundred Thirty-Nine Dollars (\$1,539.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Two Thousand Seven Hundred Four Dollars (\$2,704.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is September 24, 2010 at 5:00 PM.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

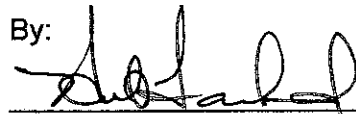
"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Ethan Edwards, the project planner, at Ethan.Edwards@surfcity-hb.org or (714) 536-5561 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, Secretary
Planning Commission

By:



Herb Fauland, Planning Manager

SH:HF:EE:kd

Attachment: Findings and Conditions of Approval – EPA No. 10-003

- c: Honorable Mayor and City Council
- Chair and Planning Commission
- Fred A. Wilson, City Administrator
- Scott Hess, Director of Planning and Building
- Bill Reardon, Division Chief/Fire Marshal
- Mike Vigliotta, Deputy City Attorney III
- Steve Bogart, Senior Civil Engineer
- Gerald Caraig, Permit-Plan Check Manager
- Ethan Edwards, Associate Planner
- Property Owner
- Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 2010-003

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves a minor modification to the operation of the existing development involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 10-003:

1. Entitlement Plan Amendment No. 10-003 for the establishment, maintenance and operation of 10 outdoor portable vending carts will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. Based upon the conditions imposed, adequate pedestrian passage area will be provided. The project has been evaluated for compatibility with the surrounding neighborhood. The portable vending carts will provide additional open air commercial amenities, are designed on a pedestrian scale and character, and will meet the goals, objectives, and policies of the General Plan.
2. The entitlement plan amendment will be compatible with surrounding uses because the ancillary operation of portable vending carts and kiosks is consistent with the zoning and General Plan designations and does not represent a significant change from the existing mix of uses. The site currently includes carts and kiosks and the entitlement plan amendment will allow for the expansion of this ancillary use. With the conditions of approval, the portable vending carts will provide adequate pedestrian passage areas and will enhance the pedestrian character and scale of the street scene surrounding the project.
3. The 10 outdoor portable vending carts facing Main Street will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. As conditioned, the project complies with all aspects of the SP5 (Downtown Specific Plan) and HBZSO including parking, onsite circulation, setbacks, carts and kiosks standards.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. It is consistent with the Land Use Element designation of MV-F6/25-sp-pd (Mixed Use Vertical-2.0 FAR/25 du/acre-Specific Plan Overlay-Pedestrian Overlay) on the subject property. In addition, it is consistent with the following goals, objectives and policies of the General Plan:

A. Land Use Element

Goal LU1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Objective LU7.1: Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, educational, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding sub-region, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic "relief" from urban development.

Goal LU11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU15.2.2: Require that structures located in the pedestrian overlay zone be sited and designed to enhance pedestrian activity along the sidewalks in consideration of the guidelines noted in the general plan.

B. Economic Development Element

Objective ED1.1: Enhance the City's market potential in terms of retail, office, industrial, and visitor serving activity. This would allow Huntington Beach to provide for retail, office, and industrial opportunities that serve the current and projected population and enhance sales and occupancy tax revenue.

Policy ED3.2.2: Encourage mixed use (retail/office/residential) structures in the downtown area and at the visitor-serving nodes along Pacific Coast Highway.

The Plaza Almeria mixed use project is located in the Downtown area of Huntington Beach. The design of the building with its retail uses facing Main Street and Olive Avenue was originally designed to encourage pedestrian activity from the pier and Pacific Coast Highway to progress further north on Main Street. A key component to expanding pedestrian activity in a downtown beach community is the provision of a mix of open-air commercial uses including carts and kiosks. As conditioned, the portable vending carts provide adequate pedestrian passage (10 ft.) which is consistent with other cart and kiosk locations in the Downtown. This request to increase the number of vending carts contributes to the project's effectiveness in meeting the goals, objectives and policies of the General Plan.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 10-003:

1. The site plan and floor plans received and dated August 16, 2010, shall be the conceptually approved design with the following modifications:
 - a. Depict a minimum eight foot wide separation between portable vending carts.
 - b. Pedestrian benches and trash receptacles shall remain or be relocated along Main Street. (DRB)
 - c. Depict a minimum 4 ft. customer queuing area around each cart. (DRB)
 - d. A minimum 10 ft. wide clear path of travel shall be maintained along the public sidewalk adjacent to the portable vending carts. (PW)
 - e. No carts shall be located at the locations designated on the site plan as 1, 7, 8, and 14.

2. Prior to operation of the carts & kiosks:

- a. One set of project plans, revised pursuant to Condition of Approval No. 1, shall be submitted to the Planning Division for review, approval and inclusion in the entitlement file.
 - b. An amended or new License Agreement, including use fees, shall be obtained from the City for portable vending carts located on public property. The applicant shall apply for an obtain approval of the license agreement from the Public Works Department prior to improvements or use of public property. The License Agreement shall be subject to termination at any time upon a 10 day prior written notice upon determination of the Planning Commission that one or more of the conditions or provisions of Section 4.2.33 or that one or more of the items listed under the Findings for Approval in this document, have been violated. Termination of a License Agreement shall nullify the conditional use permit. (PW)
3. Portable vending carts may sell general merchandise, flowers, pre-packaged food items, any other food items as permitted by the Orange County Health Care Agency. Portable vending carts may also sell any other merchandise of similar nature as the above mentioned items with approval from the Director of Planning and Building. (ED)
 4. All conditions of approval required under Conditional Use Permit No. 00-015(R), with exception of Condition of Approval No. 2(g & m), shall remain valid.
 5. EPA No. 10-003 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.
 6. All carts shall be maintained in a neat and clean manner. Products to be sold shall remain on the cart, no expansion of the display area or additional racks are allowed. Storage must be maintained within the cart, hidden from view, or in the parking garage if space is provided.
 7. A review of the use shall be conducted by the Planning Commission within 12 months of operation to verify compliance with the HBZSO and conditions of approval. At that time the Planning Commission may consider modifications to the conditions of approval.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.